

Small Business Administration

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it is found that the applicant or recipient has failed to comply.

(e) *Decision by the Administrator.* The Administrator shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, acceleration repayment or the imposition of any other sanction available under the regulations or taken under other means authorized by law.

(f) *Content of orders.* The final decision may provide for accelerating of repayment, suspension or termination of, or refusal to approve, disburse, or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance to which this regulation applies will, thereafter, be extended to the applicant or recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Administrator that it will fully comply with this part.

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance only if it satisfies the terms and conditions of that order for such eligibility and it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the Administrator determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the denial to have been in error. It shall there upon be given an expeditious hearing, with a decision on the record, in accordance with rules and procedures issued by the Administrator. The applicant or recipient shall be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 117.18 Judicial review.

(a) The complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the Agency has made no finding with regard to the complaint; or

(2) The Agency has issued a finding in favor of the recipient.

(b) If the Agency fails to make a finding within 180 days or issues a finding in favor of the recipient, the Agency shall:

(1) Advise the complainant of this fact;

(2) Advise the complainant of the right to file a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary of the Department of Health and Human Services, the Attorney General of the United States and the recipient;

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(iv) That the notice must state: The alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

§ 117.19 Effect on other regulations.

(a) All regulations, orders or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of age and which authorize the suspension or termination of or refusal to grant or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof):

(1) Executive Order 11246, as amended, and regulations issued thereunder;

(2) Title VI of the Civil Rights Act of 1964, as amended;

(3) The Equal Credit Opportunity Act, as amended and Regulation B of the Board of Governors of the Federal Reserve System, (12 CFR part 202);

(4) Section 504 of the Rehabilitation Act of 1973, as amended;

(5) Title VIII of the Civil Rights Act of 1968;

(6) Title IX of the Educational Amendments of 1972;

(7) Section 633(b) of the Small Business Act;

(8) Part 113 of title 13 of the Code of Federal Regulations (13 CFR part 113); or

(9) Any other statute, order, regulation or instruction, insofar as such order, regulations, or instruction prohibits discrimination on the grounds of

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age in any program or activity or situation to which this part is inapplicable on any other ground.

§ 117.20 Supervision and coordination.

The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government with the consent of such agencies, responsibilities in connection with the effectuation of the purpose of the Act and this part (other than responsibility for final decision as provided in § 117.17), including the achievement of effective coordination and maximum uniformity within SBA and within the Executive Branch of the Government in the application of the Act and this part to similar programs or activities and in similar situations. Responsibility for administering and enforcing this part is assigned by the Administrator, to the Office of Civil Rights Compliance, Office of Equal Employment Opportunity and Compliance of the Small Business Administration.

APPENDIX A TO PART 117¹

Type of Federal financial assistance	Authority
Business Loans	Small Business Act, section 7(a).
Debtor State Development companies (501) and their small business concerns.	Small Business Investment Act, Title V.
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Debtor certified development companies (503) and their small business concerns.	Small Business Investment Act, Title V.
Debtor small business investment companies and their small business concerns.	Small Business Investment Act, Title III.
Pollution Control	Small Business Investment Act, Title IV, Part A.
Disaster Loans:	
Physical, including riot	Small Business Act, section 7(b)(1).
Economic Injury (EIDL)	Small Business Act, section 7(b)(2).
Federal Action Loan Program.	Small Business Act, section 7(b)(3).
Small Business Institute	Small Business Act, section 8(b)(1).
Small Business Development Centers.	Small Business Act, section 21.
International Trade Program.	Small Business Act, section 22.
Technical and Management Assistance.	Small Business Act, section 7(j).

¹ None of the programs administered have any age distinctions except as statutorily required.